

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL D. ELLIS,

Plaintiff,

vs.

GRAMHN, et al.,

Defendants.

8:20CV140

**MEMORANDUM
AND ORDER**

On April 29, 2021, Plaintiff filed a motion for extension of time (Filing 42), in which he requests that deadlines established in the court's April 1, 2021 Order Setting for Progression of Case (Filing 39) be extended for a period of 90 days from July 10, 2021, when Plaintiff is scheduled to be released from prison. Defendants have not made any response to Plaintiff's motion.

A case progression schedule may be modified only for good cause and with the judge's consent. Fed. R. Civ. P. 16(b)(4). The movant's level of diligence and the degree of prejudice to the parties are both factors to consider when assessing if good cause warrants extending a case management deadline, with the movant's diligence being the first consideration and the extent of prejudice to either party considered only after the movant makes a showing of due diligence. *Smith v. Miller*, No. 8:19CV298, 2020 WL 2793566, at *1 (D. Neb. May 29, 2020) (citing cases).

Although this case has been on file since April 13, 2020, Plaintiff generally has been compliant in meeting deadlines. The court did not authorize service of process until February 2, 2021, when Plaintiff's Second Amended Complaint passed initial review, and Defendants did not enter an appearance until March 2, 2021. The progression order was entered 30 days after that. Plaintiff states he is busy getting his final "prison affairs" in order, and does not have sufficient time or ability to prepare motions or to conduct discovery before his release. Defendants have not shown they will be prejudiced by the requested extension of time.

The court finds Plaintiff's motion should be granted. The deadline for serving discovery requests will be extended to October 8, 2021 (90 days after July 10, 2021), and all other dates will be adjusted accordingly.

IT IS THEREFORE ORDERED:

1. Plaintiff's motion for extension of time (Filing 42) is granted, and the court's Order Setting Schedule for Progression of Case (Filing 39) is modified as follows:
 - a. The deadline for completing depositions is extended from July 8, 2021, to December 15, 2021.
 - b. The deadline for serving discovery requests is extended from May 3, 2021, to October 8, 2021.
 - c. The deadline for filing motions to amend pleadings is extended from June 10, 2021, to November 17, 2021.
 - d. The deadline for filing motions to compel discovery is extended from July 22, 2021, to December 29, 2021.
 - e. The deadline for filing dispositive motions is extended from August 9, 2021, to January 18, 2022.
 - f. The deadline for defense counsel to submit a draft Order on Final Pretrial Conference to Plaintiff is extended from October 12, 2021, to March 18, 2022.
 - g. The deadline for Plaintiff to provide additions or proposed deletions is extended from October 26, 2021, to April 1, 2022.
 - h. The deadline for defense counsel to submit the proposed order to the court is extended from November 9, 2021, to April 15, 2022.
2. The Magistrate Judge shall reschedule the Final Pretrial Conference to an available date at least 7 days after April 15, 2022, and shall enter an Amended Order Setting Schedule for Progression of Case, which will incorporate the date changes outlined above.
3. Plaintiff is advised that after his release from prison he will be required to file a new application for leave to proceed in forma pauperis. Plaintiff is further advised that he must keep the court informed of his current address at all times, or else the case may be dismissed.

Dated this 14th day of May, 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge